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# PRELIMINARY DRAFT

## No. 3157

PREPARED BY  
LEGISLATIVE SERVICES AGENCY  
2011 GENERAL ASSEMBLY

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### DIGEST

**Citations Affected:** IC 5-10-5.5; IC 33-38; IC 33-39-7; IC 36-8-8.

**Synopsis:** PERF and TRF administrative matters. PERF/TRF proposal #7. Requires, after December 31, 2011, that an employer of participants in: (1) the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund; (2) the judges' retirement system; (3) the prosecuting attorneys' retirement fund; and (4) the 1977 police officers' and firefighters' pension and disability fund; submit contributions, reports, and records electronically. Authorizes the board of trustees of the public employees' retirement fund (PERF) to establish due dates for contributions, reports, and records submitted by an employer. Makes technical corrections to remove references to the auditor of state in connection with the administration of the PERF.

**Effective:** July 1, 2011.



A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-10-5.5-8, AS AMENDED BY P.L.180-2007,  
2       SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2011]: Sec. 8. (a) Except as provided in subsection (c), every  
4       participant shall contribute four percent (4%) of the participant's annual  
5       salary to the participants' savings fund.

6       (b) Contributions shall be made in the form of payroll deductions  
7       from each and every payment of salary received by the participant.  
8       Every participant shall, as a condition precedent to becoming a  
9       participant, consent to the payroll deductions.

10       (c) An employer may pay all or a part of the contributions for the  
11       participant. All contributions made by an employer under this  
12       subsection shall be treated as pick-up contributions under Section  
13       414(h)(2) of the Internal Revenue Code.

14       **(d) After December 31, 2011, an employer shall submit the**  
15       **contributions paid by or on behalf of a participant under this**  
16       **section by electronic funds transfer in accordance with section 8.5**  
17       **of this chapter.**

18       SECTION 2. IC 5-10-5.5-8.5 IS ADDED TO THE INDIANA  
19       CODE AS A NEW SECTION TO READ AS FOLLOWS  
20       [EFFECTIVE JULY 1, 2011]: Sec. 8.5. (a) **This section applies to**  
21       **reports, records, and contributions submitted after December 31,**  
22       **2011.**

23       (b) As used in this section, "electronic funds transfer" has the  
24       meaning set forth in IC 4-8.1-2-7(f).

25       (c) An employer shall submit through the use of electronic funds  
26       transfer:

27               (1) employer contributions, determined by the board, to fund  
28               the retirement, disability, and survivor benefits described in  
29               this chapter; and

30               (2) contributions paid by or on behalf of a participant under  
31               section 8 of this chapter.



(d) An employer shall submit in a uniform format through a secure connection over the Internet or through other electronic means specified by the board the reports and records required by the board under this chapter.

(e) The board shall establish by rule the due dates for all reports, records, and contributions required under this chapter.

SECTION 3. IC 33-38-6-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2.5. As used in this chapter, IC 33-38-7, and IC 33-38-8, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f).**

SECTION 4. IC 33-38-6-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 21. (a)** When drawing a salary warrant for a participant, the auditor of state and the county auditor shall deduct from the amount of the warrant the participant's contribution, if any, to the fund in the amount certified in the vouchers or an order issued by the director.

(b) The auditor of state and the county auditor shall draw a warrant to the fund for the total contributions withheld from the participants each month. The warrant drawn to the fund together with a list of participants and the amount withheld from each participant shall be transmitted immediately to the director.

(c) The auditor of state shall draw warrants upon the treasurer of state, payable from the fund, for purposes provided for in this chapter, upon the presentation of vouchers or an order signed by the director of the board in accordance with resolutions of the board.

(c) After December 31, 2011, the auditor of state and the county auditor shall submit the contributions paid by or on behalf of a participant under this section by electronic funds transfer in accordance with section 21.5 of this chapter.

SECTION 5. IC 33-38-6-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 21.5. (a)** This section applies to reports, records, and contributions submitted after December 31, 2011, under this chapter, IC 33-38-7, and IC 33-38-8.

(b) An employer shall submit through the use of electronic funds transfer:

(1) employer payments made to fund the retirement, disability, and survivor benefits described in this chapter, IC 33-38-7, and IC 33-38-8; and

(2) contributions paid by or on behalf of a participant under section 21 of this chapter, IC 33-38-7-10, or IC 33-38-8-11.

(c) An employer shall submit in a uniform format through a secure connection over the Internet or through other electronic means specified by the board the reports and records required by the board under this chapter, IC 33-38-7, or IC 33-38-8.



(d) The board shall establish by rule the due dates for all reports, records, and contributions required under this chapter, IC 33-38-7, or IC 33-38-8.

SECTION 6. IC 33-38-6-23, AS AMENDED BY P.L.99-2010, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 23. (a) The board of trustees of the public employees' retirement fund shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall do the following:

(1) Determine eligibility for and make payments of benefits under IC 33-38-7 and IC 33-38-8.

(2) In accordance with the powers and duties granted it in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund.

(3) Provide by rule for the implementation of this chapter and IC 33-38-7 and IC 33-38-8.

(4) Authorize deposits.

(c) A determination by the board may be appealed under the procedures in IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the board; **and**

(2) the attorney general; ~~and~~

~~(3) the auditor of state;~~

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

(f) Fund records of individual participants and participants' information are confidential, except for the name and years of service of a fund participant.

SECTION 7. IC 33-38-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) A person who completed at least eight (8) years of service as a judge before July 1, 1953, may become a participant in the fund and be subject to this chapter if the person qualifies for benefits under section 11 of this chapter. A person who is a judge on July 1, 1953, shall become a participant in the fund and be subject to this chapter, beginning on July 1, 1953, unless twenty (20) days before July 1, 1953, the judge files with the board a written notice of election not to participate in the fund.

(b) A person who:

(1) becomes a judge after July 1, 1953, and before September 1, 1985; and

(2) is not a participant in the fund;

becomes a participant in the fund and is subject to this chapter, beginning on the date the person becomes a judge, unless within twenty



(20) days after that date the judge files with the board a written notice of election not to participate in the fund. An election filed under this subsection is irrevocable.

(c) A person who irrevocably:

(1) elects not to participate in the fund; or

(2) withdraws from the fund under section 13 of this chapter; is ineligible to participate and to receive benefits under this chapter.

(d) Participation of a judge in the fund continues until the date on which the judge:

(1) becomes an annuitant;

(2) dies; or

(3) accepts a refund;

but a person is not required to pay into the fund during any period that the person is not serving as a judge, except as otherwise provided in this chapter.

(e) A participant is considered to have made a one (1) time irrevocable salary reduction agreement of six percent (6%) of each payment of salary that a participant would otherwise have received for services as a judge.

(f) The auditor of state and the county auditor shall pay and credit to the fund the amounts described in subsection (e) as provided in IC 33-38-6-21 and IC 33-38-6-22. **After December 31, 2011, the auditor of state and the county auditor shall submit the contributions paid by or on behalf of a participant under subsection (e) by electronic funds transfer in accordance with IC 33-38-6-21.5.** However, no amounts shall be paid on behalf of a participant for more than twenty-two (22) years.

SECTION 8. IC 33-38-8-11, AS AMENDED BY P.L.122-2008, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) A participant shall make contributions to this fund of six percent (6%) of each payment of salary received for services as judge or, after December 31, 2010, as a judge or full-time magistrate. However, the employer may elect to pay the contribution for the participant as a pickup under Section 414(h) of the Internal Revenue Code.

(b) Participants' contributions, other than participants' contributions paid by the employer, shall be deducted from the monthly salary of each participant by the auditor of state and by the county auditor and credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22. **After December 31, 2011, the auditor of state and the county auditor shall submit the contributions paid by or on behalf of a participant under subsection (a) by electronic funds transfer in accordance with IC 33-38-6-21.5.** However, a contribution is not required:

(1) because of any salary received after the participant has contributed to the fund for twenty-two (22) years; or



(2) during any period that the participant is not serving as judge or, after December 31, 2010, as a judge or full-time magistrate.

SECTION 9. IC 33-39-7-11, AS AMENDED BY P.L.99-2010, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) The board shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall do the following:

(1) Determine eligibility for and make payments of benefits under this chapter.

(2) In accordance with the powers and duties granted the board in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund.

(3) Provide by rule for the implementation of this chapter.

(4) Authorize deposits.

(c) A determination by the board may be appealed under IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the board; **and**

(2) the attorney general; ~~and~~

~~(3) the auditor of state;~~

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist in the implementation of this chapter.

(f) Fund records of individual participants and participants' information are confidential, except for the name and years of service of a fund participant.

SECTION 10. IC 33-39-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) Except as provided in subsection (b), each participant shall make contributions to the fund as follows:

(1) A participant described in section 8(a)(1) of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after December 31, 1989.

(2) A participant described in section 8(a)(2) or 8(a)(3) of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after June 30, 1994.

A participant's contributions shall be deducted from the participant's monthly salary by the auditor of state and credited to the fund.

(b) The state may pay the contributions for a participant.

**(c) After December 31, 2011, the auditor of state shall submit the contributions paid by or on behalf of a participant under this section by electronic funds transfer in accordance with section 12.5 of this chapter.**

SECTION 11. IC 33-39-7-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2011]: **Sec. 12.5. (a) This section applies to reports, records, and contributions submitted after December 31, 2011, under this chapter.**

**(b) As used in this section, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f).**

**(c) The state shall submit through the use of electronic funds transfer contributions paid by or on behalf of a participant under section 12 of this chapter.**

**(d) The state shall submit in a uniform format through a secure connection over the Internet or through other electronic means specified by the board the reports and records required by the board under this chapter.**

**(e) The board shall establish by rule the due dates for all reports, records, and contributions required under this chapter.**

SECTION 12. IC 36-8-8-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 1.5. As used in this chapter, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f).**

SECTION 13. IC 36-8-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 6. (a) Each employer shall annually on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, or an alternate date established by the rules of the PERF board, pay into the 1977 fund an amount determined by the PERF board:**

**(1) for administration expenses; and**

**(2) sufficient to maintain level cost funding during the period of employment on an actuarial basis for members hired after April 30, 1977.**

**(b) After December 31, 2011, each employer shall submit the payments required by subsection (a) by electronic funds transfer.**

~~(b)~~ **(c) If an employer fails to make the payments required by subsection (a) or fails to send the fund members' contributions required by section 8(a) of this chapter, the amount payable, on request of the PERF board, may be withheld by the auditor of state from money payable to the employer and transferred to the fund. In the alternative, the amount payable may be recovered in the circuit or superior court of the county in which the employer is located, in an action by the state on the relation of the PERF board, prosecuted by the attorney general.**

SECTION 14. IC 36-8-8-8, AS AMENDED BY P.L.180-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 8. (a) Each fund member shall contribute during the period of the fund member's employment or for thirty-two (32) years, whichever is shorter, an amount equal to six percent (6%) of the salary of a first class patrolman or firefighter. However, the employer may pay all or a part of the contribution for the member. The amount of the contribution, other than contributions paid on behalf of a**



member, shall be deducted each pay period from each fund member's salary by the disbursing officer of the employer. The employer shall send to the PERF board each year on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, **or an alternate date established by the rules of the PERF board**, a certified list of fund members and a warrant issued by the employer for the total amount deducted for fund members' contributions.

**(b) After December 31, 2011, an employer shall submit:**

**(1) the list described in subsection (a) in a uniform format through a secure connection over the Internet or through other electronic means specified by the PERF board; and**

**(2) the contributions paid by or on behalf of a member under subsection (a) by electronic funds transfer.**

~~(b)~~ **(c)** Except as provided in section 7.2 of this chapter, if a fund member ends the fund member's employment other than by death or disability before the fund member completes twenty (20) years of active service, the PERF board shall return to the fund member in a lump sum the fund member's contributions plus interest as determined by the PERF board. If the fund member returns to service, the fund member is entitled to credit for the years of service for which the fund member's contributions were refunded if the fund member repays the amount refunded to the fund member in either a lump sum or a series of payments determined by the PERF board.

